

# NATIONAL PARK SERVICE ACT

*Acronym:* NPS

*Citation:* 16 U.S.C. §§ 1-459 (2002).

*Legislative Purpose:*

The act creates the National Park Service and describes the Service's responsibilities for the management of public lands, including national seashores.

*Summary:*

The act is the organic act which created the National Park Services under the Department of Interior. The Service is charged with promoting and regulating the use of federal areas known as national parks and monuments, and other specific reservations. Under the act, the Service must preserve the scenery, natural and historic objects, and wildlife within those parks, allowing for compatible uses that do not prevent the sustainability of the area. The Secretary of Agriculture aids the Interior Department in the management of the parks to such an extent as requested by Interior.

The NPS Director is given the authority to promulgate regulations effecting the management of the national parks and monuments, the violation of which carries a penalty of a maximum \$500 fine and six months imprisonment. The Director also has the authority to lease timber rights on national park lands and to destroy such animals and plant life as may be detrimental to the use of parks, monuments, or reservations. However, the director cannot perform any activity or lease arrangement which will interfere with the public's use and enjoyment of the areas. Grazing and other uses are allowed with permits.

## TITLE 16. CONSERVATION

### CHAPTER 1. NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES NATIONAL PARK SERVICE

16 U.S.C. §§ 1a - 459(b)(4) (2002).

§ 1a. [Repealed]

§ 1a-1. National Park System: administration; declaration of findings and purpose

Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system. Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 2 of this Act [*16 USC § 1c*], shall be consistent with and founded in the purpose established by the first section of the Act of August 25, 1916 [*16 USC § 1*], to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.

§ 1. Service created; director; other employees

There is created in the Department of the Interior a service to be called the National Park Service, which shall be under the charge of a director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service. There shall also be in said service such subordinate officers, clerks, and employees as may be appropriated for by Congress. The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations hereinafter specified, except such as are under the jurisdiction of the Secretary of the Army, as provided by law, by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of

the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

§ 1a-3. Legislative jurisdiction; relinquishment by Secretary; submittal of proposed agreement to Congressional committees; concurrent legislative jurisdiction

Notwithstanding any other provision of law, the Secretary of the Interior may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, part of the legislative jurisdiction of the United States over National Park System lands or interests therein in that State, Commonwealth, territory, or possession: Provided, That prior to consummating any such relinquishment, the Secretary shall submit the proposed agreement to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and shall not finalize such agreement until sixty calendar days after such submission shall have elapsed. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the law of the State, Commonwealth, territory, or possession may otherwise provide. The Secretary shall diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the National Park System is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the National Park System.

§ 1a-2. Secretary of the Interior's authorization of activities

In order to facilitate the administration of the national park system, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to carry out the following activities:

(a) Transportation. Provide transportation of employees located at isolated areas of the national park system and to members of their families, where (1) such areas are not adequately served by commercial transportation, and (2) such transportation is incidental to official transportation services.

(b) Recreation. Provide recreation facilities, equipment, and services for use by employees and their families located at isolated areas of the national park system.

(c) Advisory committees; compensation and travel expenses. Appoint and establish such advisory committees in regard to the functions of the National Park Service as he may deem advisable, members of which shall receive no compensation for their services as such but who shall be allowed necessary travel expenses as authorized by section 5 of the Administrative Expenses Act of 1946 (*5 U.S.C. 5703*).

(d) Park equipment purchases. Purchase field and special purpose equipment required by employees for the performance of assigned functions which shall be regarded and listed as park equipment.

(e) Services, resources, or water contracts. Enter into contracts which provide for the sale or lease to persons, States, or their political subdivisions, of services, resources, or water available within an area of the national park system, as long as such activity does not jeopardize or unduly interfere with the primary natural or historic resource of the area involved, if such person, State, or its political subdivision--

(1) provides public accommodations or services within the immediate vicinity of an area of the national park system to persons visiting the area; and

(2) has demonstrated to the Secretary that there are no reasonable alternatives by which to acquire or perform the necessary services, resources, or water.

(f) Vehicular air-conditioning. Acquire, and have installed, air-conditioning units for any Government-owned passenger motor vehicles used by the National Park Service, where assigned duties necessitate long periods in automobiles or in regions of the United States where high temperatures and humidity are common and prolonged.

(g) Exhibits and demonstrations; sale of products and services; contracts and cooperative arrangements; credits to appropriation. Sell at fair market value without regard to the requirements of the Federal Property and Administrative Services Act of 1949, as amended, products and services produced in the conduct of living exhibits and interpretive demonstrations in areas of the national park system, to enter into contracts including cooperative arrangements with respect to such living exhibits and interpretive demonstrations, and to credit the proceeds therefrom to the appropriation bearing the cost of such exhibits and demonstrations. Sixty percent of the fees paid by permittees for the privilege of entering into Glacier Bay for the period beginning on the first full fiscal year following the date of enactment of this sentence [enacted Nov. 12, 1996] shall be deposited into a special account and that such funds shall be available--

(1) to the extent determined necessary, to acquire and preposition necessary and adequate emergency response equipment to prevent harm or the threat of harm to aquatic park resources from permittees; and

(2) to conduct investigations to quantify any effect of permittees' activity on wildlife and other natural resource values of Glacier Bay National Park. The investigations provided for in this subsection shall be designed to provide information of value to the Secretary, in determining any appropriate limitations on permittees' activity in Glacier Bay. The Secretary may not impose any additional permittee operating conditions in the areas of air, water, and oil pollution beyond those determined and enforced by other appropriate agencies. When competitively awarding permits to enter Glacier Bay, the Secretary may take into account the relative impact particular permittees will have on park values and resources, provided that no operating conditions or limitations relating to noise abatement shall be imposed unless the Secretary determines, based on the weight of the evidence from all available studies including verifiable scientific information from the investigations provided for in this subsection, that such limitations or conditions are necessary to protect park values and resources. Fees paid by certain permittees for the privilege of entering into Glacier Bay shall not exceed \$5 per passenger. For the purposes of this subsection, "certain permittee" shall mean a permittee which provides overnight accommodations for at least 500 passengers for an itinerary of at least 3 nights, and "permittee" shall mean a concessionaire providing visitor services within Glacier Bay. Nothing in this subsection authorizes the Secretary to require additional categories of permits in, or otherwise increase the number of permits to enter Glacier Bay National Park.

(h) Regulations; promulgation and enforcement. Promulgate and enforce regulations concerning boating

and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States: Provided, That any regulations adopted pursuant to this subsection shall be complementary to, and not in derogation of, the authority of the United States Coast Guard to regulate the use of waters subject to the jurisdiction of the United States.

(i) United States Park Police and other National Park Service employees; meals and lodging. Provide meals and lodging, as the Secretary deems appropriate, for members of the United States Park Police and other employees of the National Park Service, as he may designate, serving temporarily on extended special duty in areas of the National Park System, and for this purpose he is authorized to use funds appropriated for the expenses of the Department of the Interior.

(j) Cooperative agreements with public or private educational institutions, etc. Enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.

(k) Leases.

(1) In general. Except as provided in paragraph (2) and subject to paragraph (3), the Secretary may enter into a lease with any person or governmental entity for the use of buildings and associated property administered by the Secretary as part of the National Park System.

(2) Prohibited activities. The Secretary may not use a lease under paragraph (1) to authorize the lessee to engage in activities that are subject to authorization by the Secretary through a concessions contract, commercial use authorization, or similar instrument.

(3) Use. Buildings and associated property leased under paragraph (1)--

(A) shall be used for an activity that is consistent with the purposes established by law for the unit in which the building is located;

(B) shall not result in degradation of the purposes and values of the unit; and

(C) shall be compatible with National Park Service programs.

(4) Rental amounts.

(A) In general. With respect to a lease under paragraph (1)--

(i) payment of fair market value rental shall be required; and

(ii) section 321 of the Act of June 30, 1932 (47 Stat. 412, chapter 314; *40 U.S.C. 303b*) shall not apply.

(B) Adjustment. The Secretary may adjust the rental amount as appropriate to take into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, or repair and related expenses.

(C) Regulation. The Secretary shall promulgate regulations implementing this subsection that includes provisions to encourage and facilitate competition in the leasing process and provide for timely and adequate public comment.

(5) Special account.

(A) Deposits. Rental payments under a lease under paragraph (1) shall be deposited in a special account in the Treasury of the United States.

(B) Availability. Amounts in the special account shall be available until expended, without further appropriation, for infrastructure needs at units of the National Park System, including--

- (i) facility refurbishment;
- (ii) repair and replacement;
- (iii) infrastructure projects associated with park resource protection; and
- (iv) direct maintenance of the leased buildings and associated properties.

(C) Accountability and results. The Secretary shall develop procedures for the use of the special account that ensure accountability and demonstrated results consistent with this Act.

(l) Cooperative management agreements.

(1) In general. Where a unit of the National Park System is located adjacent to or near a State or local park area, and cooperative management between the National Park Service and a State or local government agency of a portion of either park will allow for more effective and efficient management of the parks, the Secretary may enter into an agreement with a State or local government agency to provide for the cooperative management of the Federal and State or local park areas. The Secretary may not transfer administration responsibilities for any unit of the National Park System under this paragraph.

(2) Provision of goods and services. Under a cooperative management agreement, the Secretary may acquire from and provide to a State or local government agency goods and services to be used by the Secretary and the State or local governmental agency in the cooperative management of land.

(3) Assignment. An assignment arranged by the Secretary under section 3372 of title 5, United States Code, of a Federal, State, or local employee for work in any Federal, State, or local land or an extension of such an assignment may be for any period of time determined by the Secretary and the State or local agency to be mutually beneficial.

§ 1a-6. Law enforcement personnel within National Park System

(a) [Omitted]

(b) Designation authority of Secretary; powers and duties of designees. In addition to any other authority conferred by law, the Secretary of the Interior is authorized to designate, pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may--

(1) carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;

(2) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system,

in connection with any Federal offense; and

(3) conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.

(c) Supplemental special policemen; designation authority of Secretary; cooperation with State officials in enforcement of State law; reimbursement to State; concurrent jurisdiction; delegation of enforcement responsibilities. The Secretary of the Interior is hereby authorized to--

(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical and in the public interest and with the concurrence of that agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemental law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (a) of this section;

(2) cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement of supervision of the laws or ordinances of that State or subdivision;

(3) mutually waive, in any agreement pursuant to paragraphs (1) and (2) of this subsection or pursuant to subsection (b)(1) with any State or political subdivision thereof where State law requires such waiver and indemnification, any and all civil claims against all the other parties thereto and, subject to available appropriations, indemnify and save harmless the other parties to such agreement from all claims by third parties for property damage or personal injury, which may arise out of the parties' activities outside their respective jurisdictions under such agreement; and

(4) provide limited reimbursement, to a State or its political subdivisions, in accordance with such regulations as he may prescribe, where the State has ceded concurrent legislative jurisdiction over the affected area of the system, for expenditures incurred in connection with its activities within that system which were rendered pursuant to paragraph (1) of this subsection.

The authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.

(d) Special policemen not deemed Federal employees; exceptions.

(1) Except as otherwise provided in this subsection, a law enforcement officer of any State or political subdivision thereof designated to act as a special policeman under subsection (b) of this section shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including, but not limited to, those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal benefits.

(2) For purposes of the tort claim provisions of title 28, United States Code, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (b) of this section, be considered a Federal employee.

(3) For purposes of subchapter I of chapter 81 of title 5, United States Code [5 USC §§ 8101 et seq.], relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (b) of this section be deemed a civil service employee of the United States within the meaning of the term "employee" as

defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

(e) Federal investigative jurisdiction and State civil and criminal jurisdiction not preempted within National Park System. Nothing contained in this Act shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the National Park Service, and nothing shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction within the National Park System.

§ 1a-5. Additional areas for National Park System

(a) General authority. The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document: Provided, That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Natural Resources of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case.

(b) Studies of areas for potential addition.

(1) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas recommended for study for potential inclusion in the National Park System.

(2) In developing the list to be submitted under this subsection, the Secretary shall consider--

(A) those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility;

(B) themes, sites, and resources not already adequately represented in the National Park System; and

(C) public petition and Congressional resolutions.

(3) No study of the potential of an area for inclusion in the National Park System may be initiated after the date of enactment of this subsection, except as provided by specific authorization of an Act of Congress.

(4) Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than \$25,000.

(5) Nothing in this section shall be construed to apply to or to affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply to or to affect or alter

the study of any trail for potential addition to the national trails system.

(c) Report.

(1) The Secretary shall complete the study for each area for potential inclusion in the National Park System within 3 complete fiscal years following the date on which funds are first made available for such purposes. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, and after reasonable efforts to notify potentially affected landowners and State and local governments.

(2) In conducting the study, the Secretary shall consider whether the area under study--

(A) possesses nationally significant natural or cultural resources and represents one of the most important examples of a particular resource type in the country; and

(B) is a suitable and feasible addition to the system.

(3) Each study--

(A) shall consider the following factors with regard to the area being studied--

(i) the rarity and integrity of the resources;

(ii) the threats to those resources;

(iii) similar resources are already protected in the National Park System or in other public or private ownership;

(iv) the public use potential;

(v) the interpretive and educational potential;

(vi) costs associated with acquisition, development and operation;

(vii) the socioeconomic impacts of any designation;

(viii) the level of local and general public support; and

(ix) whether the area is of appropriate configuration to ensure long-term resource protection and visitor use;

(B) shall consider whether direct National Park Service management or alternative protection by other public agencies or the private sector is appropriate for the area;

(C) shall identify what alternative or combination of alternatives would in the professional judgment of the Director of the National Park Service be most effective and efficient in protecting significant resources and providing for public enjoyment; and

(D) may include any other information which the Secretary deems to be relevant.

(4) Each study shall be completed in compliance with the National Environmental Policy Act of 1969 [42 USC §§ 4321 et seq.].

(5) The letter transmitting each completed study to Congress shall contain a recommendation regarding the Secretary's preferred management option for the area.

(d) New area study office. The Secretary shall designate a single office to be assigned to prepare all new area studies and to implement other functions of this section.

(e) List of areas. At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a list of areas which have been previously studied which contain primarily historical resources, and a list of areas which have been previously studied

which contain primarily natural resources, in numerical order of priority for addition to the National Park System. In developing the lists, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section. The Secretary should only include on the lists areas for which the supporting data is current and accurate.

(f) Authorization of appropriations. For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed \$1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed \$1,500,000. For carrying out subsections (b) through (d) there are authorized to be appropriated \$2,000,000 for each fiscal year.

#### § 1a-4. Uniform allowance

Notwithstanding subsection 5901(a) of title 5, United States Code (80 Stat. 508), as amended, the uniform allowance for uniformed employees of the National Park Service may be up to \$400 annually.

#### § 1a-7a. National Park System crime prevention assistance

(a) Availability of funds. There are authorized to be appropriated out of the Violent Crime Reduction Trust Fund, not to exceed \$10,000,000, for the Secretary of the Interior to take all necessary actions to seek to reduce the incidence of violent crime in the National Park System.

(b) Recommendations for improvement. The Secretary shall direct the chief official responsible for law enforcement within the National Park Service to--

- (1) compile a list of areas within the National Park System with the highest rates of violent crime;
- (2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and
- (3) publish the information required by paragraphs (1) and (2) in the Federal Register.

(c) Distribution of funds. Based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute the funds authorized by subsection (a) throughout the National Park System. Priority shall be given to those areas with the highest rates of sexual assault.

(d) Use of funds. Funds provided under this section may be used--

- (1) to increase lighting within or adjacent to National Park System units;
  - (2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to National Park System units;
  - (3) to increase security or law enforcement personnel within or adjacent to National Park System units;
- or
- (4) for any other project intended to increase the security and safety of National Park System units.

#### § 1a-8. Maintenance management system

(a) Implementation and elements. Beginning in fiscal year 1985, the National Park Service shall implement

a maintenance management system into the maintenance and operations programs of the National Park System. For purposes of this section the term "maintenance management system" means a system that contains but is not limited to the following elements:

(1) a work load inventory of assets including detailed information that quantifies for all assets (including but not limited to buildings, roads, utility systems, and grounds that must be maintained) the characteristics affecting the type of maintenance work performed;

(2) a set of maintenance tasks that describe the maintenance work in each unit of the National Park System;

(3) a description of work standards including frequency of maintenance, measurable quality standard to which assets should be maintained, methods for accomplishing work, required labor, equipment and material resources, and expected worker production for each maintenance task;

(4) a work program and performance budget which develops an annual work plan identifying maintenance needs and financial resources to be devoted to each maintenance task;

(5) a work schedule which identifies and prioritizes tasks to be done in a specific time period and specifies required labor resources;

(6) work orders specifying job authorizations and a record of work accomplished which can be used to record actual labor and material costs; and

(7) reports and special analyses which compare planned versus actual accomplishments and costs and can be used to evaluate maintenance operations.

(b) [Repealed]

#### § 1a-7. National Park System development program

(a) Transmittal to Congressional committees. Not later than January 15 of each calendar year, the Secretary of the Interior shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a detailed program for the development of facilities, structures, or buildings for each unit of the National Park System consistent with the general management plans required in subsection (b) of this section.

(b) General management plans; preparation and revision by Director of National Park Service; list to Congress; contents. General management plans for the preservation and use of each unit of the National Park System, including areas within the national capital area, shall be prepared and revised in a timely manner by the Director of the National Park Service. On January 1 of each year, the Secretary shall submit to the Congress a list indicating the current status of completion or revision of general management plans for each unit of the National Park System. General management plans for each unit shall include, but not be limited to:

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

(c) [Deleted]

§ 1a-10. Public hearings

In conducting and preparing the report referred to in section 1, the Secretary shall consult with appropriate officials of affected Federal, State and local agencies, together with national, regional, and local organizations, including but not limited to holding such public hearings as the Secretary determines to be appropriate to provide a full opportunity for public comment.

§ 1a-9. Comprehensive review; report

The Secretary of the Interior (hereafter in this title referred to as the "Secretary") is authorized and directed to conduct a systematic and comprehensive review of certain aspects of the National Park System and to submit on a periodic basis but not later than every 3 years a report to the Committee on Natural Resources and the Committee on Appropriations of the United States House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate on the findings of such review, together with such recommendations as the Secretary determines necessary. The first report shall be submitted no later than 3 years after the date of enactment of this Act [enacted Nov. 28, 1990].

§ 1a-11. Contents of report

The report shall contain--

(a) A comprehensive listing of all authorized but unacquired lands within the exterior boundaries of each unit of the National Park System as of the date of enactment [enacted Nov. 28, 1990].

(b) A priority listing of all such unacquired parcels by individual park unit and for the National Park System as a whole. The list shall describe the acreage and ownership of each parcel, the estimated cost of acquisition for each parcel (subject to any statutory acquisition limitations for such lands), and the basis for such estimate.

(c) An analysis and evaluation of the current and future needs of each unit of the National Park System for resource management, interpretation, construction, operation and maintenance, personnel, housing, together with an estimate of the costs thereof.

§ 1a-12. Evaluation of proposed changes

Within one year after the date of enactment [enacted Nov. 28, 1990], the Secretary shall develop criteria to evaluate any proposed changes to the existing boundaries of individual park units including--

(a) analysis of whether or not the existing boundary provides for the adequate protection and preservation of the natural, historic, cultural, scenic and recreational resources integral to the unit;

(b) an evaluation of each parcel proposed for addition or deletion to the unit based on the analysis under paragraph (1);

(c) an assessment of the impact of potential boundary adjustments taking into consideration the factors in paragraph (c) as well as the effect of the adjustments on the local communities and surrounding area.

§ 1a-13. Boundary changes

In proposing any boundary change after the date of enactment of this section [enacted Nov. 28, 1990], the Secretary shall--

(a) consult with affected agencies of State and local governments surrounding communities, affected landowners and private national, regional, and local organizations;

(b) apply the criteria developed pursuant to section 1216 [16 USC § 1a-12] and accompany this proposal with a statement reflecting the results of the application of such criteria;

(c) include with such proposal an estimate of the cost for acquisition of any parcels proposed for acquisition together with the basis for the estimate and a statement on the relative priority for the acquisition of each parcel within the priorities for acquisition of other lands for such unit and for the National Park System.

§ 1b. Secretary of the Interior's authorization of additional activities; administration of Park System In order to facilitate the administration of the National Park System, the Secretary of the Interior is hereby authorized to carry out the following activities, and he may use applicable appropriations for the aforesaid system for the following purposes:

(1) Emergency assistance. Rendering of emergency rescue, fire fighting, and cooperative assistance to nearby law enforcement and fire prevention agencies and for related purposes outside of the National Park System.

(2) Utility facilities; erection and maintenance. The erection and maintenance of fire protection facilities, water lines, telephone lines, electric lines, and other utility facilities adjacent to any area of the said National Park System, where necessary, to provide service in such area.

(3) Transportation of employees of Carlsbad Caverns National Park; rates. Transportation to and from work, outside of regular working hours, of employees of Carlsbad Caverns National Park, residing in or near the city of Carlsbad, New Mexico, such transportation to be between the park and the city, or intervening points, at reasonable rates to be determined by the Secretary of the Interior taking into consideration, among other factors, comparable rates charged by transportation companies in the locality for similar services, the amounts collected for such transportation to be credited to the appropriation current at the time payment is received: Provided, That if adequate transportation facilities are available, or shall be available by any common carrier, at reasonable rates, then and in that event the facilities contemplated by this paragraph shall not be offered.

(4) Utility services for concessioners; reimbursement. Furnishing, on a reimbursement of appropriation basis, all types of utility services to concessioners, contractors, permittees, or other users of such services, within the National Park System: Provided, That reimbursements for cost of such utility services may be credited to the appropriation current at the time reimbursements are received.

(5) Supplies and rental of equipment; reimbursement. Furnishing, on a reimbursement of appropriation basis, supplies, and the rental of equipment to persons and agencies that in cooperation with, and subject to the approval of, the Secretary of the Interior, render services or perform functions that facilitate or

supplement the activities of the Department of the Interior in the administration of the National Park System: Provided, That reimbursements hereunder may be credited to the appropriation current at the time reimbursements are received.

(6) Contracts for utility facilities. Contracting, under such terms and conditions as the said Secretary considers to be in the interest of the Federal Government, for the sale, operation, maintenance, repair, or relocation of Government-owned electric and telephone lines and other utility facilities used for the administration and protection of the National Park System, regardless of whether such lines and facilities are located within or outside said system [and areas].

(7) Rights-of-way. Acquiring such rights-of-way as may be necessary to construct, improve, and maintain roads within the authorized boundaries of any area of the said National Park System, and the acquisition also of land and interests in land adjacent to such rights-of-way, when deemed necessary by the Secretary, to provide adequate protection of natural features or to avoid traffic and other hazards resulting from private road access connections, or when the acquisition of adjacent residual tracts, which otherwise would remain after acquiring such rights-of-way, would be in the public interest.

(8) Operation and maintenance of motor and other equipment; rent of equipment; reimbursement. The operation, repair, maintenance, and replacement of motor and other equipment on a reimbursable basis when such equipment is used on Federal projects of the said National Park System, chargeable to other appropriations, or on work of other Federal agencies, when requested by such agencies. Reimbursement shall be made from appropriations applicable to the work on which the equipment is used at rental rates established by the Secretary, based on actual or estimated cost of operation, repair, maintenance, depreciation, and equipment management control, and credited to appropriations currently available at the time adjustment is effected, and the Secretary may also rent equipment for fire control purposes to State, county, private, or other non-Federal agencies that cooperate with the Secretary in the administration of the said National Park System and other areas in fire control, such rental to be under the terms of written cooperative agreements, the amount collected for such rentals to be credited to appropriations currently available at the time payment is received.

§ 1c. General administration provisions; system defined; particular areas

(a) "National park system" defined. The "national park system" shall include any area of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

(b) Specific provisions applicable to an area; uniform application of sections 1b to 1d and other provisions of this title to all areas when not in conflict with specific provisions; references in other provisions to national parks, monuments, recreation areas, historic monuments, or parkways not a limitation of such other provisions to those areas. Each area within the national park system shall be administered in accordance with the provisions of any statute made specifically applicable to that area. In addition, the provisions of this Act [*16 USC §§ 1b et seq.*], and the various authorities relating to the administration and protection of areas under the administration of the Secretary of the Interior through the National Park Service, including but not limited to the Act of August 25, 1916 (39 Stat. 535), as amended (*16 U.S.C. 1, 2-4*) the Act of March 4, 1911 (36 Stat. 1253), as amended (*16 U.S.C. 5*) relating to rights-of-way, the Act of June 5, 1920 (41 Stat. 917), as amended (*16 U.S.C. 6*), relating to donation of land and money, sections

1, 4, 5, and 6 of the Act of April 9, 1924 (43 Stat. 90), as amended (*16 U.S.C. 8 and 8a-8c*), relating to roads and trails, the Act of March 4, 1931 (46 Stat. 1570; *16 U.S.C. 8d*) relating to approach roads to national monuments, the Act of June 3, 1948 (62 Stat. 334), as amended (*16 U.S.C. 8e-8f*), relating to conveyance of roads to States, the Act of August 31, 1954 (68 Stat. 1037), as amended (*16 U.S.C. 452a*), relating to acquisitions of inholdings, section 1 of the Act of July 3, 1926 (44 Stat. 900), as amended (*16 U.S.C. 12*), relating to aid to visitors in emergencies, the Act of March 3, 1905 (33 Stat. 873; *16 U.S.C. 10*), relating to arrests, sections 3, 4, 5, and 6 of the Act of May 26, 1930 (46 Stat. 381), as amended (*16 U.S.C. 17b, 17c, 17d, and 17e*), relating to services or other accommodations for the public, emergency supplies and services to concessioners, acceptability of travelers checks, care and removal of indigents, the Act of October 9, 1965 (79 Stat. 696 [969]; *16 U.S.C. 20-20g*), relating to concessions, the Land and Water Conservation Fund Act of 1965, as amended, and the Act of July 15, 1968 (82 Stat. 355), shall, to the extent such provisions are not in conflict with any such specific provision, be applicable to all areas within the national park system and any reference in such Act to national parks, monuments, recreation areas, historic monuments, or parkways shall hereinafter not be construed as limiting such Acts to those areas.

§ 1a-14. National Park System advisory committees

(a) Charter. The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776) are hereby waived with respect to any advisory commission or advisory committee established by law in connection with any national park system unit during the period such advisory commission or advisory committee is authorized by law.

(b) Members. In the case of any advisory commission or advisory committee established in connection with any national park system unit, any member of such Commission or Committee may serve after the expiration of his or her term until a successor is appointed.

§ 1e. National Capital region arts and cultural affairs; grant program

There is hereby established under the direction of the National Park Service a program to support and enhance artistic and cultural activities in the National Capital region. Eligibility for grants shall be limited to organizations of demonstrated national significance which meet at least two of the additional following criteria:

- (1) an annual operating budget in excess of \$1,000,000;
- (2) an annual audience or visitation of at least 200,000 people;
- (3) a paid staff of at least one hundred persons; or
- (4) eligibility under the Historic Sites Act of 1935 (*16 U.S.C. 462(e)*).

Public or private colleges and universities are not eligible for grants under this program.

Grants awarded under this section may be used to support general operations and maintenance, security, or special projects. No organization may receive a grant in excess of \$500,000 in a single year.

The Director of the National Park Service shall establish an application process, appoint a review panel

of five qualified persons, at least a majority of whom reside in the National Capital region, and develop other program guidelines and definitions as required.

The contractual amounts required for the support of Ford's Theater and Wolf Trap Farm Park for the Performing Arts shall be available within the amount herein provided without regard to any other provisions of this section.

§ 1f. Challenge cost-share agreement authority

(1) Definitions. For purposes of this subsection [this section]:

(A) The term "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out authorized functions and responsibilities of the Secretary of the Interior with respect to any unit or program of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (*16 U.S.C. 1c(a)*)), any affiliated area, or any designated National Scenic or Historic Trail.

(B) The term "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(2) Challenge cost-share agreements. The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators.

(3) Use of Federal funds. In carrying out challenge cost-share agreements, the Secretary of the Interior is authorized to provide the Federal funding share from any funds available to the National Park Service.

§ 1g. Cooperative agreements with State, local and tribal governments, etc.

The National Park Service may in fiscal year 1997 and thereafter enter into cooperative agreements that involve the transfer of National Park Service appropriated funds to State, local and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the public purpose of carrying out National Park Service programs pursuant to *31 U.S.C. 6305* to carry out public purposes of National Park Service programs.

§ 1d. Appropriations

Hereafter [after Aug. 8, 1953] applicable appropriations of the National Park Service shall be available for the objects and purposes specified in the Act of August 7, 1946 (60 Stat. 885) [*16 USC § 17j-2*].

§ 2. National parks, reservations, and monuments; supervision

The director shall, under the direction of the Secretary of the Interior, have the supervision, management, and control of the several national parks and national monuments which are now [on August 25, 1916] under the jurisdiction of the Department of the Interior, and of the Hot Springs Reservation [Hot Springs National Park] in the State of Arkansas, and of such other national parks and reservations of like character as may be hereafter created by Congress: Provided, That in the supervision, management, and control of national monuments contiguous to national forests the Secretary of Agriculture may co-operate with said National Park Service to such extent as may be requested by the Secretary of the Interior.

§ 3. Rules and regulations of national parks, reservations, and monuments; timber; leases

The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary

or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service, and any violation of any of the rules and regulations authorized by this Act shall be punished by a fine of not more than \$500 or imprisonment for not exceeding six months, or both, and be adjudged to pay all costs of the proceedings. He may also, upon terms and conditions to be fixed by him, sell or dispose of timber in those cases where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park, monument, or reservation. He may also provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks, monuments, or reservations. No natural curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public: Provided, however, That the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze livestock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created, except that this provision shall not apply to the Yellowstone National Park. And provided further, That the Secretary of the Interior may grant said privileges, leases, and permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids: And provided further, That no contract, lease, permit, or privilege granted shall be assigned or transferred by such grantees, permittees, or licensees without the approval of the Secretary of the Interior first obtained in writing.

#### § 4. Rights of way through public lands

Nothing in this Act contained shall affect or modify the provisions of the Act approved February fifteenth, nineteen hundred and one, entitled "An Act relating to rights of way through certain parks, reservations, and other public lands".

#### § 3a. Recovery of costs associated with special use permits

Notwithstanding any other provision of law, the National Park Service may hereafter recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time.

#### § 5. Rights-of-way through parks or reservations for power and communications facilities [For partial repeal, see other provisions note]

The head of the department having jurisdiction over the lands be, and he hereby is, authorized and empowered, under general regulations to be fixed by him, to grant an easement for rights-of-way, for a period not exceeding fifty years from the date of the issuance of such grant, over, across, and upon the public lands, national forests, and reservations of the United States for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to the extent of two hundred feet on each side of the center line of such lines and poles and not

to exceed four hundred feet by four hundred feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to any citizen, association, or corporation of the United States, where it is intended by such to exercise the right-of-way herein granted for any one or more of the purposes herein named: Provided, That such right-of-way shall be allowed within or through any national park, national forest, military, Indian, or any other reservation only upon the approval of the chief officer of the department under whose supervision or control such reservation falls, and upon a finding by him that the same is not incompatible with the public interest: Provided further, That all or any part of such right-of-way may be forfeited and annulled by declaration of the head of the department having jurisdiction over the lands for nonuse for a period of two years or for abandonment.

Any citizen, association, or corporation of the United States to whom there has heretofore [prior to March 4, 1911] been issued a permit for any of the purposes specified herein under any existing law, may obtain the benefit of this Act [this section] upon the same terms and conditions as shall be required of citizens, associations, or corporations thereafter making application under the provisions of this statute [this section].

§ 6. Donations of lands within national parks; monuments and moneys

The Secretary of the Interior in his administration of the National Park Service is authorized, in his discretion, to accept patented lands, rights of way over patented lands or other lands, buildings, or other property within the various national parks and national monuments, and moneys which may be donated for the purposes of the national park and monument system.

§ 6a. [Repealed]

§ 7. [Repealed]

§ 7a. Airports in or near national parks, monuments, and recreational areas; construction, etc.

The Secretary of the Interior (hereinafter called the "Secretary") is hereby authorized to plan, acquire, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and protect airports in the continental United States in, or in close proximity to, national parks, national monuments, and national recreation areas, when such airports are determined by him to be necessary to the proper performance of the functions of the Department of the Interior: Provided, That no such airport shall be acquired, established, or constructed by the Secretary unless such airport is included in the then current revision of the national airport plan formulated by the Secretary of Transportation pursuant to the provisions of the Federal Airport Act: Provided further, That the operation and maintenance of such airports shall be in accordance with the standards, rules, or regulation prescribed by the Secretary of Transportation.

§ 7b. Acquisition of lands for airport use; contracts for operation and maintenance

In order to carry out the purposes of this Act, the Secretary is authorized to acquire necessary lands and interests in or over lands; to contract for the construction, improvement, operation, and maintenance of airports and incidental facilities; to enter into agreements with other public agencies providing for the construction, operation, or maintenance of airports by such other public agencies or jointly by the Secretary and such other public agencies upon mutually satisfactory terms; and to enter into such other agreements and take such other action with respect to such airports as may be necessary to carry out the purposes of this Act: Provided, That nothing in this Act shall be held to authorize the Secretary to acquire any land, or interest in or over land, by purchase, condemnation, grant, or lease without first obtaining the consent of the Governor of the State, and the consent of the State political subdivision in which such land is located: And provided further, That the authorization herein granted shall not exceed \$3,500,000.

§ 7c. Authorization to sponsor airport projects; use of funds

In order to carry out the purposes of this Act the Secretary is hereby authorized to sponsor projects under the Federal Airport Act either independently or jointly with other public agencies, and to use, for payment of the sponsor's share of the project costs of such projects, any funds that may be contributed or otherwise made available to him for such purpose (receipt of which funds and their use for such purposes is hereby authorized) or may be appropriated or otherwise specifically authorized therefor.

§ 7d. Jurisdiction over airports; public operation

All airports under the jurisdiction of the Secretary, unless otherwise specifically provided by law, shall be operated as public airports, available for public use on fair and reasonable terms and without unjust discrimination.

§ 8. Roads and trails in national parks and monuments; construction, etc.

The Secretary of the Interior, in his administration of the National Park Service, is authorized to construct, reconstruct, and improve roads and trails, inclusive of necessary bridges, in the national parks and monuments under the jurisdiction of the Department of the Interior.

§ 8-1. [Repealed]

§ 7e. Definitions

The terms "airport," "project," "project costs," "public agency," and "sponsor," as used in this Act, shall have the respective meanings prescribed in the Federal Airport Act.

§ 8b. National-park approach roads and roads and trails within national parks and national monuments; construction, improvement, and maintenance; appropriation

The Secretary of the Interior is hereby authorized during the fiscal years 1950 and 1951 to construct, reconstruct, and improve such national-park approach roads so designated, inclusive of necessary bridges,

and to enter into agreements for the maintenance thereof by State or county authorities, or to maintain them when otherwise necessary, as well as hereafter to construct, reconstruct, and improve roads and trails within the national parks and national monuments; and for all such purposes there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the following sums: \$10,000,000 for the fiscal year ending June 30, 1950; the sum of \$10,000,000 for the fiscal year ending June 30, 1951: Provided, That under agreement with the Secretary of the Interior the Secretary of Agriculture [Secretary of Commerce] may carry out any or all of the provisions of this section: Provided further, That not to exceed \$1,500,000 shall be allocated annually for the construction, reconstruction, and improvement of such national park approach roads: And provided further, That nothing in this Act shall be construed to limit the authority of the Secretary of the Interior to hereafter construct, reconstruct, improve, and maintain roads and trails within the national parks and national monuments.

§ 8c. National-park approach roads across or within national forests; approval of Secretary of Agriculture

Whenever any such approach road is proposed under the terms of this Act across or within any national forest the Secretary of the Interior shall secure the approval of the Secretary of Agriculture before construction shall begin.

§ 8a. National-park approach roads; designation

Whenever the Secretary of the Interior shall determine it to be in the public interest he may designate as national-park approach roads and as supplementary parts of the highway systems of any of the national parks roads whose primary value is to carry national-park travel and which lead across lands wholly or to the extent of 90 per centum owned by the Government of the United States and which will connect the highways within a national park with a convenient point on or leading to the Federal 7 per centum highway system: Provided, That such approach roads so designated shall be limited to not to exceed sixty miles in length between a park gateway and such point on or leading to the nearest convenient 7 per centum system road; or, if such approach road is on the 7 per centum system, it shall be limited to not to exceed thirty miles: Provided further, That not to exceed forty miles of any one approach road shall be designated in any one county.

§ 8d. National--monument approach roads

Approach roads to national monuments shall be included within the provisions of such Act under the same conditions as approach roads to national parks, and the limitation therein on the amount of annual allocation of funds to national park approach roads shall be inclusive of such national monument approaches.

*In the interest of brevity, some sections of the National Park Service Act are omitted. The following address National Seashores and other pertinent issues.)*

§ 79c. Acquisition of land

(a) Authority of Secretary; administrative sites; manner and place; donation of State lands; reverters and other conditions. The Secretary is authorized to acquire lands and interests in land within the boundaries of the Redwood National Park and, in addition thereto, not more than ten acres outside of those boundaries for an administrative site or sites. Such acquisition may be by donation, purchase with appropriated or donated funds, exchange, or otherwise, but lands and interests in land owned by the State of California may be acquired only by donation which donation of lands or interest in lands may be accepted in the discretion of the Secretary subject to such preexisting reverters and other conditions as may appear in the title to these lands held by the State of California, and such other reverters and conditions as may be consistent with the use and management of the donated lands as a portion of Redwood National Park. Notwithstanding any other provision of law, the Secretary may expend appropriated funds for the management of and for the construction, design, and maintenance or permanent improvements on such lands and interests in land as are donated by the State of California in a manner not inconsistent with such reverters and other conditions.

(b) Vested and possessory rights in certain real property; termination of operations; removal of equipment, facilities, and personal property; down tree personal property; acquired roads; just compensation; payment; jurisdiction; acreage limitation; notice.

(1) Effective on the date of enactment of this Act [enacted Oct. 2, 1968], there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the park boundaries designated in maps NPS-RED-7114-A and NPS-RED-7114-B and effective on the date of enactment of this phrase [enacted Mar. 27, 1978], there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California", numbered 167-80005-D and dated March 1978, and all right, title, and interest in, and the right to immediate possession of the down tree personal property (trees severed from the ground by man) severed prior to January 1, 1975, or subsequent to January 31, 1978, within the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California", numbered 167-80005-D and dated March 1978, [,] except real property owned by the State of California or a political subdivision thereof and except as provided in paragraph (3) of this subsection. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States under this subsection, and for the removal of equipment, facilities, and personal property therefrom.

Down tree personal property severed subsequent to December 31, 1974, and prior to February 1, 1978 may be removed in accordance with applicable State and Federal law, or other applicable licenses, permits, and existing agreements, unless the Secretary determines that the removal of such down timber would damage second growth resources or result in excessive sedimentation in Redwood Creek: Provided, however, That down timber lying in stream beds may not be removed without permission of the Secretary: Provided, That such removal shall also be subject to such reasonable conditions as may be required by the Secretary to insure the continued availability of raw materials to Redwoods United, Incorporated, a nonprofit corporation located in Manila, California.

The Secretary shall permit, at existing levels and extent of access and use, continued access and use of each acquired segment of the B line, L line, M line, and K and K roads by each current affected woods

employer or its successor in title and interest: Provided, That such use is limited to forest and land management and protection purposes, including timber harvesting and road maintenance. The Secretary shall permit, at existing levels and extent of access and use, continued access and use of acquired portions of the Bald Hills road by each current affected woods employer or its successor in title and interest: Provided further. That nothing in this sentence shall diminish the authority of the Secretary to otherwise regulate the use of the Bald Hills road.

(2) The United States will pay just compensation to the owner of any real property taken by paragraph (1) of this subsection. Such compensation shall be paid either: (A) by the Secretary of the Treasury from money appropriated from the Land and Water Conservation Fund, including money appropriated to the Fund pursuant to section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended [*16 USC § 460 1-7(b)*], subject to the appropriation limitation in section 10 of this Act [*16 USC § 79j*], upon certification to him by the Secretary of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 per centum per annum from the date of taking the property to the date of payment therefor; or (B) by the Secretary, if the owner of the land concurs, with any federally owned property available to him for purposes of exchange pursuant to the provisions of section 5 of this Act [*16 USC § 79e*]; or (C) by the Secretary using any combination of such money or federally owned property. Any action against the United States with regard to the provisions of this Act and for the recovery of just compensation for the lands and interests therein taken by the United States, and for the down tree personal property taken, shall be brought in the United States district court for the district where the land is located without regard to the amount claimed. The United States may initiate proceedings at any time seeking a determination of just compensation in the district court in the manner provided by sections 1358 and 1403 of title 28, United States Code, and may deposit in the registry of the court the estimated just compensation, or a part thereof, in accordance with the procedure generally described by section 258a of title 40, United States Code. Interest shall not be allowed on such amounts as shall have been paid into the court. In the event that the Secretary determines that the fee simple title to any property (real or personal) taken under this section is not necessary for the purposes of this Act, he may, with particular attention to minimizing the payment of severance damages and to allow for the orderly removal of down timber, revest title to such property subject to such reservations, terms, and conditions, if any, as he deems appropriate to carry out the purposes of this Act, and may compensate the former owner for no more than the fair market value of the rights so reserved, except that the Secretary may not revest title to any property for which just compensation has been paid; or, the Secretary may sell at fair market value without regard to the requirements of the Federal Property and Administrative Services Act of 1949, as amended, such down timber as in his judgment may be removed without damage to the park, the proceeds from such sales being credited to the Treasury of the United States. If the State of California designates a right-of-way for a bypass highway around the eastern boundary of Prairie Creek Redwood State Park prior to October 1, 1984, the Secretary is authorized and directed to acquire such lands or interests in lands as may be necessary for such a highway and, subject to such conditions as the Secretary may determine are necessary to assure the adequate protection of Redwood National Park, shall thereupon donate the designated right-of-way to the State of California for a new bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County. Such acreage as may be necessary in the judgment of the Secretary for this conveyance, and for a buffer thereof, shall be deemed to be a publicly owned highway for purposes of section 101(a)(2) of this amendment [*16*

*USC § 79b(a)*] effective on the date of enactment of this section [enacted Mar. 27, 1978).

(3) Subsection 3(b) [this subsection] shall apply to ownerships of fifty acres or less only if such ownerships are held or occupied primarily for nonresidential or nonagricultural purposes, and if the Secretary gives notice to the owner within sixty days after the effective date of this Act [enacted Oct. 2, 1968] of the application of this subsection. Notice by the Secretary shall be deemed to have been made as of the effective date of this Act [enacted Oct. 2, 1968]. The district court of the United States for that district in which such ownerships are located shall have jurisdiction to hear and determine any action brought by any person having an interest therein for damages occurring by reason of the temporary application of this paragraph, between the effective date of this Act [enacted Oct. 2, 1968] and the date upon which the Secretary gives such notice. Nothing in this paragraph shall be construed as affecting the authority of the Secretary under subsections (a) and (c) of this section to acquire such areas for the purposes of this Act [*16 USC §§ 79a et seq.*].

(c) Minimization of severance damages; costs not chargeable against appropriations authorization. If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the park or the administrative site the Secretary may, in order to minimize the payment of severance damages, acquire the whole of the tract or parcel and exchange that part of it which is outside the boundaries for land or interests in land inside the boundaries or for other land or interests in land acquired pursuant to this Act [*16 USC §§ 79a et seq.*], and dispose of so much thereof as is not so utilized in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (*40 U.S.C. 471 et seq.*) The cost of any land so acquired and disposed of shall not be charged against the limitation on authorized appropriations contained in section 10 of this Act [*16 USC § 79j*].

(d) Land for screen of trees along certain highway. The Secretary is further authorized to acquire, as provided in subsection (a) of this section, lands and interests in land bordering both sides of the highway between the present southern boundary of Prairie Creek Redwoods State Park and a point on Redwood Creek near the town of Orick to a depth sufficient to maintain or to restore a screen of trees between the highway and the land behind the screen and the activities conducted thereon.

(e) Timber, soil, and stream protection; "interests in land" defined; notice to Congress of intended action, costs, and benefits requisite for acquisitions, contracts, or cooperative agreements; availability of funds; authorization of appropriations; rehabilitative activities. In order to afford as full protection as is reasonably possible to the timber, soil, and streams within the boundaries of the park, the Secretary is authorized, by any of the means set out in subsections (a) and (c) of this section, to acquire interests in land from, and to enter into contracts and cooperative agreements with, the owners of land on the periphery of the park and on watersheds tributary to streams within the park designed to assure that the consequences of forestry management, timbering, land use, and soil conservation practices conducted thereon, or of the lack of such practices, will not adversely affect the timber, soil, and streams within the park as aforesaid. As used in this subsection, the term "interests in land" does not include fee title unless the Secretary finds that the cost of a necessary less-than-fee interest would be disproportionately high as compared with the estimated cost of the fee. No acquisition other than by donation shall be effectuated and no contract or cooperative agreement shall be executed by the Secretary pursuant to the provisions of this subsection until after he has notified the President of the Senate and the Speaker of the House of Representatives of his intended action

and of the costs and benefits to the United States involved therein. Effective on the date of enactment of this sentence [enacted Mar. 27, 1978], there are made available from the amounts provided in section 10 [16 USC § 79j] herein or as may be hereafter provided such sums as may be necessary for the acquisition of interests in land. Effective on October 1, 1978, there are authorized to be appropriated such sums as may be necessary for the implementation of contracts and cooperative agreements pursuant to this subsection: Provided, That it is the express intent of Congress that the Secretary shall to the greatest degree possible insure that such contracts and cooperative agreements provide for the maximum retention of senior employees by such owners and for their utilization in rehabilitation and other efforts. The Secretary, in consultation with the Secretary of Agriculture, is further authorized, pursuant to contract or cooperative agreement with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, private entity or person, to initiate, provide funds, equipment, and personnel for the development and implementation of a program for the rehabilitation of areas within and upstream from the park contributing significant sedimentation because of past logging disturbances and road conditions, and, to the extent feasible, to reduce risk of damage to streamside areas adjacent to Redwood Creek and for other reasons: Provided further, That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. Such contracts or cooperative agreements shall be subject to such other conditions as the Secretary may determine necessary to assure the adequate protection of Redwood National Park generally, and to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of Del Norte and Humboldt Counties in northern California. The Secretary shall undertake and publish studies on erosion and sedimentation originating within the hydrographic basin of Redwood Creek with particular effort to identify sources and causes, including differentiation between natural and man-aggravated conditions, and shall adapt his general management plan to benefit from the results of such studies. The Secretary, or the Secretary of Agriculture, where appropriate, shall also manage any additional Federal lands under his jurisdiction that are within the hydrographic basin of Redwood Creek in a manner which will minimize sedimentation which could affect the park, and in coordination with plans for sediment management within the basin. To effectuate the provisions of this subsection, and to further develop scientific and professional information and data concerning the Redwood Forest ecosystem, and the various factors that may affect it, the Secretary may authorize access to the area subject to this subsection by designated representatives of the United States.

§ 452a. Acquisition of non-Federal land within existing boundaries of any National Park; donations; authorization of appropriations

In order to consolidate Federal land ownership within the existing boundaries of any National Park and to encourage the donation of funds for that purpose, the Secretary of the Interior is authorized to accept and to use in his discretion funds which may be donated subject to the condition that such donated funds are to be expended for purposes of this Act [this section] by the Secretary only if Federal funds in an amount equal to the amount of such donated funds are appropriated for the purposes of this Act [this section]. There are authorized to be appropriated such funds as may be necessary to match funds that may be donated for such purposes: Provided, That the amount which may be appropriated annually for purposes of this Act [this section] shall be limited to \$500,000.

§ 459. Cape Hatteras National Seashore Recreational Area; conditional establishment; acquisition of lands

When title to all the lands, except those within the limits of established villages, within boundaries to be designated by the Secretary of the Interior within the area of approximately one hundred square miles on the islands of Chicamacomico, Ocracoke, Bodie, Roanoke, and Collington, and the waters and the lands beneath the waters adjacent thereto shall have been vested in the United States, said area shall be, and is hereby, established, dedicated, and set apart as a national seashore recreational area for the benefit and enjoyment of the people and shall be known as the Cape Hatteras National Seashore Recreational Area: Provided, That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid area, but such lands shall be secured by the United States only by public or private donation.

§ 459a. Acceptance of donations; acquisition of property by purchase and condemnation

The Secretary of the Interior is hereby authorized to accept donations of land, interests in land, buildings, structures, and other property, within the boundaries of said national seashore recreational area as determined and fixed hereunder and donations of funds for the purchase and maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: Provided, That he may acquire on behalf of the United States under any donated funds by purchase, when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of the Act of August 1, 1888, such tracts of land within the said national seashore recreational area as may be necessary for the completion thereof.

§ 459a-3. Migratory bird refuges not to be affected

Notwithstanding any other provisions of this Act [*16 USC §§ 459 et seq.*], lands and waters now or hereafter included in any migratory bird refuge under the jurisdiction of the Secretary of Agriculture, within the boundaries of the national seashore recreational area as designated by the Secretary of the Interior under section 1 hereof [*16 USC § 459*], shall continue as such refuge under the jurisdiction of the Secretary of Agriculture for the protection of migratory birds, but such lands and waters shall be a part of the aforesaid national seashore recreational area and shall be administered by the National Park Service for recreational uses not inconsistent with the purposes of such refuge under such rules and regulations as the Secretaries of the Interior and Agriculture may jointly approve. The proviso to section 1 of this Act [*16 USC § 459*] shall not limit the power of the Secretary of Agriculture to acquire lands for any migratory bird refuge by purchase with any funds made available therefor by applicable law.

§ 459a-2. Preservation of natural features; acquisition of additional property; reversion of property on failure of conditions

Except for certain portions of the area, deemed to be especially adaptable for recreational uses, particularly swimming, boating, sailing, fishing, and other recreational activities of similar nature, which shall be developed for such uses as needed, the said area shall be permanently reserved as a primitive wilderness and no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible, with the preservation of the unique flora and fauna or the physiographic conditions now

prevailing in this area: Provided, That the Secretary of the Interior may, in his discretion, accept for administration, protection, and development by the National Park Service a minimum of ten thousand acres within the area described in section 1 of this Act [16 USC § 459], including the existing Cape Hatteras State Park, and, in addition, any other portions of the area described in section 1 hereof [16 USC § 459] if the State of North Carolina shall agree that if all the lands described in section 1 of this Act [16 USC § 459] shall not have been conveyed to the United States within fifteen years from August 17, 1937, the establishment of the aforesaid national seashore recreational area may, in the discretion of the said Secretary, be abandoned, and that, in the event of such abandonment, the said State will accept a reconveyance of title to all lands conveyed by it to the United States for said national seashore recreational area. The lands donated to the United States for the purposes of this Act [16 USC §§ 459 et seq.] by parties other than said State shall revert in the event of the aforesaid abandonment to the donors, or their heirs, or other persons entitled thereto by law.

In the event of said abandonment, the Secretary of the Interior shall execute any suitable quitclaim deeds, or other writings entitled to record in the proper counties of North Carolina stating the fact of abandonment, whereupon title shall revert to those entitled thereto by law and no further conveyance or proof of reversion of title shall be required.

§ 459a-1. Administration, protection, and development; commercial fishing by residents; hunting The administration, protection, and development of the aforesaid national seashore recreational area shall be exercised under the direction of Secretary of the Interior by the National Park Service, subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), entitled, "An Act to establish a National Park Service, and for other purposes," as amended [16 USC §§ 1 et seq.]: Provided, That except as hereinafter provided nothing herein shall be construed to divest the jurisdiction of other agencies of the Government now exercised over Federal-owned lands within the area of the said Cape Hatteras National Seashore Recreational Area: Provided further, That the provisions of the Act of June 10, 1920, known as the "Federal Water Power Act," shall not apply to this national seashore recreational area: And provided further, That the legal residents of villages referred to in section 1 of this Act [16 USC § 459] shall have the right to earn a livelihood by fishing within the boundaries to be designated by the Secretary of the Interior, subject to such rules and regulations as the said Secretary may deem necessary in order to protect the area for recreational use as provided for in this Act [16 USC §§ 459 et seq.]: And provided further, That hunting shall be permitted, under such rules and regulations as may be prescribed by the Secretary of the Interior in conformity with the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755) [16 USC §§ 703 et seq.], as follows: (a) Upon the waters of the sounds included within the national seashore recreational area, (b) in the area north of the Currituck County line, (c) on Ocracoke Island, and (d) within not more than two thousand acres of land in the remaining portion of said national seashore recreational area, as shall be designated by the Secretary of the Interior; except on lands and waters included in any existing or future wildlife or migratory bird refuge and adjacent closed waters.

§ 459a-5. Addition of lands; Naval Amphibious Training Station  
There is hereby transferred to the Secretary of the Interior without reimbursement or transfer of funds,

administrative jurisdiction over an area of approximately twenty-one and eight-tenths acres of federally owned land, formerly designated as the Naval Amphibious Training Station, together with any improvements thereon which may exist at the time of the transfer, situated on Ocracoke Island within the village of Ocracoke, County of Hyde, in the State of North Carolina. The property so transferred shall be administered by the Department of the Interior and shall become a part of the Cape Hatteras National Seashore Recreational Area, when established.

§ 459a-5a. Addition of lands; Hatteras

The tracts of excess Federal lands and improvements thereon in the village of Hatteras, Dare County, North Carolina, bearing General Services Administration control numbers T-NC-442 and C-NC-444, comprising forty-three one-hundredths and one and five-tenths acres of land, respectively, the exact descriptions for which shall be determined by the Administrator of General Services, are hereby transferred, without exchange of funds, to the administrative jurisdiction of the Secretary of the Interior to be administered as a part of the Cape Hatteras National Seashore Recreational Area, authorized by the Act of August 17, 1937, as amended (50 Stat. 669; *16 U. S. C. 459-459a-4*), and shall be subject to all the laws and regulations applicable thereto.

§ 459a-6. Acquisition of non-Federal land within boundaries of recreational area

The Act of August 31, 1954 (68 Stat. 1037) [*16 USC § 452a*], is hereby amended to extend the authority of the Secretary of the Interior, contained therein, to the Cape Hatteras National Seashore Recreational Area.

§ 459a-7. Availability of appropriations

Any funds appropriated to the Department of the Interior for the acquisition of non-Federal lands within areas of the National Park System shall hereafter [after August 6, 1956] be available for the acquisition of non-Federal lands within the Cape Hatteras National Seashore Recreational Area, and the appropriation of funds for the acquisition of such lands is hereby authorized.

§ 459a-8. Limitation on expenditure

The total amount which may be expended for the land acquisition program at Cape Hatteras National Seashore Recreational Area, pursuant to the authorizations contained in this Act [*16 USC §§ 459a-6 et seq.*], is hereby expressly limited to \$250,000.

§ 459a-9. Conveyance of land for improvement with public health facility; reversion; consideration; status of property upon transfer of title

The Secretary of the Interior is authorized to convey the tract of land and improvements thereon situate in the village of Hatteras, Dare County, North Carolina, and administered as a part of the Cape Hatteras National Seashore, formerly bearing General Services Administration excess property control number C-NC-444, comprising one and five-tenths acres, the exact description for which shall be determined by the Secretary, to the Board of Commissioners of Dare County, for purposes of providing thereon a public health facility: Provided, That title to the land and any improvement shall revert to the United States upon a finding and notification to the grantee by the Secretary that the property is used for purposes other than a public health facility. The conveyance herein authorized shall be without monetary consideration.

Upon the transfer of title to the grantee, the property herein conveyed shall cease to be a part of the Cape Hatteras National Seashore.



§ 459a-10. Transfer of Ocracoke Light Station to Secretary of the Interior

The Administrator of the General Services Administration shall transfer administrative jurisdiction over the Federal property consisting of approximately 2 acres, known as the Ocracoke Light Station, to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes. All property so transferred shall be included in and administered as part of the Cape Hatteras National Seashore.

§ 459b. Cape Cod National Seashore; description of area

(a) The area comprising that portion of the land and waters located in the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham in the Commonwealth of Massachusetts, and described in subsection (b), is designated for establishment as Cape Cod National Seashore (hereinafter referred to as "the seashore").

§ 459b-1. Acquisition of property

(a) Authority of Secretary; manner and place; concurrence of State owner; transfer from Federal agency to administrative jurisdiction of Secretary. The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to acquire by purchase, gift, condemnation, transfer from any Federal agency, exchange, or otherwise, the land, waters, and other property, and improvements thereon and any interest therein, within the area which is described in section 1 of this Act [*16 USC § 459b*] or which lies within the boundaries of the seashore as described pursuant to section 3 of this Act [*16 USC § 459b-2*] (both together hereinafter in this Act [*16 USC §§ 459b* and note, et seq.] referred to as "such area"). Any property, or interest therein, owned by the Commonwealth of Massachusetts, by any of the towns referred to in section 1 of this Act [*16 USC § 459b*], or by any other political subdivision of said Commonwealth may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this Act [*16 USC §§ 459b* and note, et seq.].

(b) Use of funds; fair market value. The Secretary is authorized (1) to use donated and appropriated funds in making acquisitions under this Act [*16 USC §§ 459b* and note, et seq.], and (2) to pay therefor not more than the fair market value of any acquisitions which he makes by purchase under this Act [*16 USC §§ 459b* and note, et seq.].

(c) Exchange of property; cash equalization payments; reports to Congress. In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: Provided, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

The Secretary shall report to the Congress on every exchange carried out under authority of this Act [*16*

*USC §§ 459b* and note, et seq.] within thirty days from its consummation, and each such report shall include a statement of the fair market values of the properties involved and of any cash equalization payment made or received.

(d) The Secretary may convey to the town of Provincetown, Massachusetts, a parcel of real property consisting of approximately 7.62 acres of Federal land within such area in exchange for approximately 11.157 acres of land outside of such area, as depicted on the map entitled "Cape Cod National Seashore Boundary Revision Map", dated May, 1997, and numbered 609/80,801, to allow for the establishment of a municipal facility to serve the town that is restricted to solid waste transfer and recycling facilities and for other municipal activities that are compatible with National Park Service laws and regulations. Upon completion of the exchange, the Secretary shall modify the boundary of the Cape Cod National Seashore to include the land that has been added.

(e) "Fair market value" defined; appraisal. As used in this Act [*16 USC §§ 459b* et seq.] the term "fair market value" shall mean the fair market value as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

#### § 459b-2. Establishment

(a) Notice in Federal Register. As soon as practicable after the date of enactment of this Act [enacted Aug. 7, 1961] and following the acquisition by the Secretary of an acreage in the area described in section 1 of this Act [*16 USC § 459b*] that is in the opinion of the Secretary efficiently administrable to carry out the purposes of this Act [*16 USC §§ 459b* and note, et seq.], the Secretary shall establish Cape Cod National Seashore by the publication of notice thereof in the Federal Register.

(b) Distribution of notice and map. Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 1 of this Act [*16 USC § 459b*]. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the Commonwealth of Massachusetts and to the board of selectmen of each of the towns referred to in section 1 of this Act [*16 USC § 459b*]; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of such towns; and (3) cause a certified copy of such notice, a copy of such map, and a copy of this Act to be recorded at the registry of deeds for Barnstable County, Massachusetts.

#### § 459b-3. Acquisition by condemnation

(a) Right of use and occupancy for residential purposes for life or fixed term of years; exercise of right of election; impairment of interests of lienholders, etc.; right as running with land; transfer, assignment and termination of right; computation of compensation.

(1) The beneficial owner or owners, not being a corporation, of a freehold interest in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the

right of use and occupancy of the said property for noncommercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under paragraph (1) of this subsection, to retain the right of use and occupancy of the said property for noncommercial residential purposes (i) for a term limited by the nature and quality of his or their said estate, if his or their said estate is a life estate or an estate pur autre vie, or (ii) for a term ending at the death of such owner or owners, or at the death of the survivor of them, if his or their said estate is an estate of fee simple.

(3) Where such property is held by a natural person or persons for his or their own life or lives or for the life or lives of another or others (such person or persons being hereinafter called "the life tenant"), with remainder in another or others, any right of election provided for in paragraph (2) of this subsection shall be exercised by the life tenant, and any right of election provided for in paragraph (1) of this subsection shall be exercised by the concurrence of the life tenant and the remainderman or remaindermen.

(4) The beneficial owner or owners of a term of years in improved property which the Secretary acquires by a condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term not to exceed the remainder of his or their said term of years, or a term of twenty-five years, whichever shall be the lesser. The owner or owners of the freehold estate or estates in such property may, subject to the right provided for in the preceding sentence, exercise such right or rights of election as remain to them under paragraphs (1) and (2) of this subsection.

(5) No right of election accorded by paragraphs (1), (2), or (4) of this subsection shall be exercised to impair substantially the interests of holders of encumbrances, liens, assessments, or other charges upon or against the property.

(6) Any right or rights of use and occupancy retained pursuant to paragraphs (1), (2), and (4) of this subsection shall be held to run with the land, and may be freely transferred and assigned.

(7) In any case where a right of use and occupancy for life or for a fixed term of years is retained as provided in paragraph (1), (2), or (4) of this subsection, the compensation paid by the Secretary for the property shall not exceed the fair market value of the property on the date of its acquisition by the Secretary, less the fair market value on such date of the said right retained.

(8) The Secretary shall have authority to terminate any right of use and occupancy of property, retained as provided in paragraph (1), (2), or (4) of this subsection, at any time after the date when any use occurs with respect to such property which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in regulations issued pursuant to section 5 of this Act [*16 USC § 459b-4*] and in effect on said date: Provided, That no use which is in conformity with the provisions of a zoning bylaw approved in accordance with said section 5 [*16 USC § 459b-4*] which is in force and applicable to such property shall be held to fail to conform or be opposed to or inconsistent with any such standard. In the event that the Secretary exercises the authority conferred by this paragraph, he shall pay to the owner of the right so terminated an amount equal to the fair market value of the portion of said right which remained on the date of termination.

(b) Suspension of authority for one year and during existence of zoning regulations.

(1) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within such area in all of the towns referred to in section 1 of this Act [*16 USC § 459b*] for one year following the date of its enactment [enacted Aug. 7, 1961].

(2) Thereafter such authority shall be suspended with respect to all improved property located within such area in any one of such towns during all times when such town shall have in force and applicable to such property a duly adopted, valid zoning bylaw approved by the Secretary in accordance with the provisions of section 5 of this Act [*16 USC § 459b-4*].

(c) Suspension of authority respecting property used for commercial or industrial purposes. The Secretary's authority to acquire property by condemnation shall be suspended with respect to any particular property which is used for commercial or industrial purposes during any periods when such use is permitted by the Secretary and during the pendency of the first application for such permission made to the Secretary after the date of enactment of this Act [enacted Aug. 7, 1961] provided such application is made not later than the date of establishment of the seashore.

(d) "Improved property" defined. The term "improved property," wherever used in this Act [*16 USC §§ 459b* and note, et seq.], shall mean a detached, one-family dwelling the construction of which was begun before September 1, 1959 (hereinafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The amount of the land so designated shall in every case be at least three acres in area, or all of such lesser amount as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: Provided, however, That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters as the Secretary may deem necessary for public access thereto.

(e) Acquisition of clear, marketable and encumbrance-free title. Nothing in this section or elsewhere in this Act [*16 USC §§ 459b* and note, et seq.] shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

#### § 459b-4. Zoning regulations

(a) Standards for approval; submission to Congress and municipalities; publication in Federal Register; approval of local bylaws; revocation of approval. As soon after the enactment of this Act [enacted Aug. 7, 1961] as may be practicable, the Secretary shall issue regulations specifying standards for approval by him of zoning bylaws for purposes of section 4 of this Act [*16 USC § 459b-3*]. The Secretary may issue amended regulations specifying standards for approval by him of zoning bylaws whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions.

All regulations and amended regulations proposed to be issued under authority of the two preceding sentences of this subsection shall be submitted to the Congress and to the towns named in section 1 of this

Act [16 USC § 459b] at least ninety calendar days (which ninety days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) before they become effective and the Secretary shall, before promulgating any such proposed regulations or amended regulations in final form, take due account of any suggestions for their modification which he may receive during said ninety-day period. All such regulations and amended regulations shall, both in their proposed form and in their final form, be published in the Federal Register.

The Secretary shall approve any zoning bylaw and any amendment to any approved zoning bylaws submitted to him which conforms to the standards contained in the regulations in effect at the time of the adoption by the town of such bylaw or such amendment unless before the time of adoption he has submitted to the Congress and the towns and published in the Federal Register as aforesaid proposed amended regulations with which the bylaw or amendment would not be in conformity, in which case he may withhold his approval pending completion of the review and final publication provided for in this subsection and shall thereafter approve the bylaw or amendment only if it is in conformity with the amended regulations in their final form. Such approval shall not be withdrawn or revoked, nor shall its effect be altered for purposes of section 4 of this Act [16 USC § 459b-3] by issuance of any such amended regulations after the date of such approval, so long as such bylaw or such amendment remains in effect as approved.

(b) Commercial and industrial use prohibition; acreage, frontage, setback and miscellaneous requirements. The standards specified in such regulations and amended regulations for approval of any zoning bylaw or zoning bylaw amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property within the boundaries of the seashore which is situated within the town adopting such bylaw; and (2) promoting the preservation and development, in accordance with the purposes of this Act [16 USC §§ 459b and note, et seq.], of the area comprising the seashore, by means of acreage, frontage, and setback requirements and other provisions which may be required by such regulations to be included in a zoning bylaw consistent with the laws of Massachusetts.

(c) Adverse provisions and absence of notice for variance as requiring disapproval of local bylaws. No zoning bylaw or amendment of a zoning bylaw shall be approved by the Secretary which (1) contains any provisions which he may consider adverse to the preservation and development, in accordance with the purposes of this Act [16 USC §§ 459b and note, et seq.], of the area comprising the seashore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such bylaw or amendment.

(d) Termination of suspension of authority for acquisition by condemnation because of nonconforming variances and uses; agreements concerning exercise of authority. If any improved property with respect to which the Secretary's authority to acquire by condemnation has been suspended by reason of the adoption and approval, in accordance with the foregoing provisions of this section, of a zoning bylaw applicable to such property (hereinafter referred to as "such bylaw")--

(1) is made the subject of a variance under or an exception to such bylaw, which variance or exception fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in

the regulations issued pursuant to this section and in effect at the time of the passage of such bylaw, or

(2) is property upon or with respect to which there occurs any use, commencing after the date of the publication by the Secretary of such regulations, which fails to conform or is in any manner opposed to or inconsistent with any applicable standard contained in such regulations (but no use which is in conformity with the provisions of such bylaw shall be held to fail to conform or be opposed to or inconsistent with any such standard),

the Secretary may, at any time and in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation: Provided, however, That the Secretary may agree with the owner or owners of such property to refrain from the exercise of the said authority during such time and upon such terms and conditions as the Secretary may deem to be in the best interests of the development and preservation of the seashore.

§ 459b-6. Administration of acquired property

(a) Utilization of authority for conservation and management of natural resources. Except as otherwise provided in this Act [*16 USC §§ 459b* and note, et seq.], the property acquired by the Secretary under this Act [*16 USC §§ 459b* and note, et seq.] shall be administered by the Secretary subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and in accordance with laws of general application relating to the national park system as defined by the Act of August 8, 1953 (67 Stat. 496) [*16 USC §§ 1b* et seq.]; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act [*16 USC § 459b*, note].

(b) Preservation of seashore; incompatible visitor conveniences restricted; provisions for public enjoyment and understanding; developments for recreational activities; public use areas.

(1) In order that the seashore shall be permanently preserved in its present state, no development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: Provided, That the Secretary may provide for the public enjoyment and understanding of the unique natural, historic, and scientific features of Cape Cod within the seashore by establishing such trails, observation points, and exhibits and providing such services as he may deem desirable for such public enjoyment and understanding: Provided further, That the Secretary may develop for appropriate public uses such portions of the seashore as he deems especially adaptable for camping, swimming, boating, sailing, hunting, fishing, the appreciation of historic sites and structures and natural features of Cape Cod, and other activities of similar nature.

(2) In developing the seashore the Secretary shall provide public use areas in such places and manner as he determines will not diminish for its owners or occupants the value or enjoyment of any improved property located within the seashore.

(c) Hunting and fishing regulations; navigation. The Secretary may permit hunting and fishing, including

shellfishing, on lands and waters under his jurisdiction within the seashore in such areas and under such regulations as he may prescribe during open seasons prescribed by applicable local, State and Federal law. The Secretary shall consult with officials of the Commonwealth of Massachusetts and any political subdivision thereof who have jurisdiction of hunting and fishing, including shellfishing, prior to the issuance of any such regulations, and the Secretary is authorized to enter into cooperative arrangements with such officials regarding such hunting and fishing, including shellfishing, as he may deem desirable, except that the Secretary shall leave all aspects of the propagation and taking of shellfish to the towns referred to in section 1 [16 USC § 459b].

The Secretary shall not interfere with navigation of waters within the boundaries of the Cape Cod National Seashore by such means and in such areas as is now customary.